

**DISABLED VETERAN BUSINESS ENTERPRISE PREFERENCE PROGRAM**

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October 15, 2013

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

10 October 15, 2013

*Sachia A. Hamai*  
SACHIA A. HAMAI  
EXECUTIVE OFFICER

Dear Supervisors:

**ORDINANCE ESTABLISHING A DISABLED VETERAN BUSINESS ENTERPRISE PREFERENCE  
PROGRAM  
(ALL SUPERVISORIAL DISTRICTS)  
(3 VOTES)**

**SUBJECT**

Approval of an ordinance establishing Chapter 2.211 to Title 2 – Administration of the County Code, Disabled Veteran Business Enterprise Preference Program.

**IT IS RECOMMENDED THAT THE BOARD:**

Approve an ordinance establishing Chapter 2.211 to Title 2 – Administration of the County Code, Disabled Veteran Business Enterprise Preference Program.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On August 20, 2013, your Board directed the Internal Services Department (ISD) to work with County Counsel to prepare an ordinance ("Ordinance") amending the County Code, Title 2 – Administration, to establish a Disabled Veteran Business Enterprise (DVBE) Preference Program that provides for a purchasing and contracting bid preference to veterans with service-connected disabilities.

The proposed Ordinance (attached) establishes a DVBE Preference Program ("DVBE Program") that is consistent with other preference programs established by the Board, including the Local Small Business Enterprise (LSBE), and Transitional Job Opportunities Preference (TJOP) programs.

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These programs are designed to promote inclusiveness and economic development to ensure that all businesses are provided equal opportunities in the County's purchasing and contracting activities.

Consistent with the other County preference programs, the proposed DVBE Program provides for an eight percent (8%) price or scoring preference to bids and proposals from qualified DVBEs. A qualified business is one that has been certified as a DVBE by the State of California or the Veteran's Administration at the time of bid or proposal submittal.

The DVBE Program exclusions are also consistent with the other County preference programs. The DVBE Program excludes any contract or purchase for which a federal, State or local law prohibits or limits a DVBE preference. Furthermore, as a DVBE may also be certified LSBE or TJOP, the Ordinance restricts any preference amount to a maximum of eight percent (8%).

If approved by your Board, the proposed Ordinance will be implemented in countywide solicitations released on or after December 1, 2013. This will provide ISD sufficient time to update the website and provide implementation instructions to County departments, and communicate the DVBE Program to the business community, including potential DVBE vendors.

**Implementation of Strategic Plan Goals**

Approval of the proposed addition to the County Code will further the County's Strategic Plan Goal of Organizational Effectiveness by ensuring that service delivery systems are efficient, effective and goal-oriented.

**FISCAL IMPACT/FINANCING**

There is no historical or financial information available for DVBEs that are currently doing business with the County. However, State records indicate that there are 125 such businesses that are located in Los Angeles County.

ISD believes that establishing a preference would generate DVBE participation, and the preference amount would result in awards to DVBEs. However, given the limited number of DVBEs identified in the region, ISD estimates that the overall increase in countywide costs would be marginal. No cost is incurred when a DVBE is the low bidder.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The proposed Ordinance has been approved as to form by County Counsel.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The proposed Ordinance will enhance existing contracting and purchasing policies and procedures while providing the appropriate guidance and direction necessary to reach decisions that are consistent with your Board's direction.

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Respectfully submitted,

A handwritten signature in black ink that reads "JE Jones". The signature is written in a cursive style with a large, stylized "J" and "E" followed by the surname "Jones".

JIM JONES  
Acting Director

JJ:JS:j

Enclosures

c: Chief Executive Officer  
County Counsel  
Executive Officer, Board of Supervisors  
Small Business Commission

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**VERIFYING DVBE CERTIFICATION STATUS**

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**ORDINANCE NO. 2013-0042**

An ordinance amending Title 2 - Administration of the Los Angeles County Code to establish a Disabled Veteran Business Enterprise Preference Program that provides a purchasing and contracting bid preference to veterans with service connected disabilities.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Chapter 2.211 is hereby added to read as follows:

**2.211.010 Introduction.**

The Board of Supervisors finds that it is of benefit to the County of Los Angeles to promote and facilitate the fullest possible participation by all citizens in the affairs of the County in every way possible. It is also essential that opportunities be provided for full participation in our free enterprise system for disabled veterans. Further, it is the policy of the Board that the County should aid and assist, to the maximum extent possible, the interests of disabled veterans in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for purchase of goods or services for the County be placed with such enterprises.

**2.211.020 Purpose.**

The County of Los Angeles disabled veteran business enterprise preference program is a race and gender-neutral program designed to enhance purchasing and contracting opportunities for disabled veterans within the County of Los Angeles. The program priorities were developed to promote and foster inclusiveness and economic development, as well as ongoing evaluation to assure all businesses including disabled veteran businesses, are provided equal opportunities in county purchasing and contracting activities.

**2.211.030 Definitions.**

For the purpose of this chapter, the following words and phrases are defined and shall be construed as having the following meaning:

- A. "County" shall mean the County of Los Angeles or any public entities for which the Board of Supervisors is the governing body.
- B. "Department" shall mean the county department, entity, or organization responsible for the solicitation.
- C. "Disabled veteran business enterprise" shall mean:
  - 1. A business which is certified by the State of California as a disabled veteran business enterprise; or
  - 2. A business which is certified as a disabled veteran business by the Veterans Administration.

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**VERIFYING DVBE CERTIFICATION STATUS**

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- D. "Solicitation" shall mean the county's process to obtain bids or proposals for goods and services.

**2.211.040 Administration.**

The Internal Services Department ("ISD") with the assistance of County Counsel, shall issue interpretations of the provisions of this chapter, and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other departments.

**2.211.050 Certification.**

Each department is responsible for verifying that a contractor is a disabled veteran business enterprise. A contractor shall qualify as a disabled veteran business enterprise if the following criteria are met:

1. A business which is certified by the State of California as a disabled veteran business enterprise; or
2. A business that is certified as a disabled veteran business by the Veterans Administration.

**2.211.060 Responsibilities and standards.**

- A. In order to facilitate the participation of disabled veteran business enterprises in county purchases of goods and services, county departments shall provide for disabled veteran business enterprise preferences in their purchase of goods and services where responsibility and quality are equal.
- B. In order for a disabled veteran business enterprise to be eligible to claim the preferences, the business must request the preference in the solicitation response.
- C. In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, subject to subsection E and F of this section, the preference to a disabled veteran business enterprise shall be eight percent (8%) of the lowest responsible bidder meeting specifications, determined according to the instructions issued by ISD.
- D. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to price, subject to subsections E and F of this section, the preference to the disabled veteran business enterprise shall be eight percent (8%) of the cost/price component of the evaluation method, determined according to the instructions issued by ISD.
- E. The disabled veteran business enterprise preference under subsections C and D of this section shall not exceed fifty thousand dollars (\$50,000) for any one solicitation and award determination.

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**VERIFYING DVBE CERTIFICATION STATUS**

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- F. In no case shall the disabled veteran business enterprise preference program price or scoring preference be combined with any other county preference program to exceed eight percent (8%) in response to any county solicitation.

**2.211.070 Exclusions.**

The disabled veteran business enterprise preference shall not be given for the following County purchases:

- A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.
- B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal manual, Section 4.40 or a successor provision.
- C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, Section P-2810 or a successor provision.
- D. A non-agreement purchase with a value of less than five thousand dollars (\$5,000) pursuant to the Los Angeles County Purchasing Policy Manual, Section A-0300 or a successor provision.
- E. A contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government, including those relating to participation in a contract by a minority or women owned business enterprise, as a condition of the receipt of the federal funds.
- F. A contract for which federal, state, or local laws prohibit application of a disabled veteran business enterprise preference.

**2.211.080 Violations and Sanctions.**

- A. The information furnished by each solicitation respondent requesting a local disabled veteran business enterprise preference shall be under penalty of perjury.
- B. No person or business shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a disabled veteran business enterprise for the purpose of this chapter.

## VERIFYING DVBE CERTIFICATION STATUS

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- C. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a disabled veteran business enterprise.
  
- D. A business which has obtained certification as a local disabled veteran business enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:
  - 1. Pay to the County any difference between the contract amount and what the County's cost would have been if the contract had been properly awarded;
  
  - 2. In addition to the amount described in subdivision 1 of subsection D of this section, be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved; and
  
  - 3. Be subject to the provisions of Chapter 2.202 of the County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).
  
- E. The above penalties shall also apply to any business that has previously obtained proper certification, however, as result of a change in their status would no longer be eligible for certification, and fails to notify the state and ISD of this information prior to responding to a solicitation or accepting a contract award.

### **2.211.090 Review of eligibility of local disabled veterans business enterprise certification.**

ISD will investigate any complaint of eligibility received by the County concerning the disabled veteran business enterprise preference program.

### **2.211.100 Applicability.**

This chapter shall apply to all solicitations issued 90 days after the effective date of the ordinance codified in this chapter.

### CALCULATION OF THE DVBE PREFERENCE

**Bids:** Award is made to the lowest most responsive and responsible bidder.

Bidder	Status	Bid Amount	Preference Adjustment	Bid Calculated After Preference
<b>A</b>	Claims Disabled Veteran Business Enterprise status but is not a DVBE	\$30,750	\$0	\$30,750
<b>B</b>	Does not claim to be a DVBE	\$28,975	\$0	\$28,975
<b>C</b>	<b>Claims DVBE status and is a DVBE</b>	<b>\$29,870</b>	<b>(\$2,318*)</b>	<b>\$27,552</b>

\* For preference calculation purposes: 8 percent of the lowest responsive and responsible bid of \$28,975 (Bidder B) would be \$2,318 ( $\$28,975 \times .08$ ).

Bidder C would be recommended for a contract for \$29,870 (Bidder C's bid amount).

**Proposals:** Proposals are evaluated and points are awarded based on cost and non-cost components (e.g. approach to providing the services, references, experience, etc). Under this program only the cost component points are adjusted for the preference.

#### With No Preference

	Proposer A DVBE	Proposer B Non- DVBE	Proposer C DVBE	Proposer D Non- DVBE
Proposed Cost	<b>\$103,000</b>	\$100,000	<b>\$106,000</b>	\$101,000
Non-Cost Points (maximum of 700)	<b>500</b>	500	<b>420</b>	490
Calculation of Cost Points (maximum of 300) Based on low cost/cost times 300 points	300 points times ( $\$100,000/\$103,000$ ) = 291	300 points times ( $\$100,000/\$100,000$ ) = 300	300 points times ( $\$100,000/\$106,000$ ) = 282	300 points times ( $\$100,000/\$101,000$ ) =297
Total Points – with no preference	<b>791</b>	800	<b>702</b>	787



### CALCULATION OF THE DVBE PREFERENCE

#### Adjusted for the Preference

	<b>Proposer A DVBE</b>	<b>Proposer B Non- DVBE</b>	<b>Proposer C DVBE</b>	<b>Proposer D Non- DVBE</b>
Proposed Cost	<b>\$103,000</b>	\$100,000	<b>\$106,000</b>	\$101,000
Cost Adjustment (5% of \$100k)	<b><u>(\$8,000)</u></b>	<u>0</u>	<b><u>(\$8,000)</u></b>	<u>0</u>
Adjusted Amount	<b>\$95,000</b>	\$100,000	<b>\$98,000</b>	\$101,000
Non-Cost Points (maximum of 700)	<b>500</b>	500	<b>420</b>	490
Calculation of Cost Points (maximum of 300) Based on low cost / cost x 300 points	<b>300 points times (\$95,000/\$95,000) = 300</b>	<b>300 points times (\$95,000/\$100,000) = 285</b>	<b>300 points times (\$95,000/\$98,000) = 291</b>	<b>300 points times (\$95,000/\$101,000) =291</b>
Total Points – with preference	<b>800</b>	785	<b>711</b>	<b>781</b>

- Proposer B is the lowest cost and received the maximum points. Cost points awarded to the other Proposers are calculated based on the following formula: (Proposer B's costs divided by Proposer's cost) times the maximum points for cost.
- Proposer B was the lowest cost proposal and a non- DVBE. Therefore, the cost points must be re-apportioned after application of the 8 percent calculation of Proposer B's proposed cost amount of \$100,000. Eight percent of \$100,000 is \$8,000.
- All proposal costs from DVBEs will be reduced by this amount (\$8,000). After arriving at new "evaluation" amounts for the DVBEs, new cost points must be apportioned, using the new "evaluation" amounts as set forth below. Note: points established for other criteria for each Proposer do not change. Only the points associated with the cost component are re-apportioned.
- The highest scored proposal is now the proposal received from Proposer A, a DVBE. The contract award amount will be Proposer A's original proposed amount (\$103,000), not the amount used for evaluation purposes.
- The DVBE Program's additional cost in this example is \$3,000.

**DVBE PROGRAM – STANDARD SOLICITATION LANGUAGE**

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The following language shall be included in any solicitation subject to the DVBE Preference Program Ordinance.

**Disabled Veteran Business Enterprise Preference Program**

The County will give DVBE preference during the solicitation process to businesses that meet the definition of a Disabled Veteran Business Enterprise (DVBE), consistent with Chapter 2.211 of the Los Angeles County Code. A DVBE is defined as:

- 1) A business which is certified by the State of California as a Disabled Veteran Business Enterprise (DVBE); or
- 2) A business which is certified by the Department of Veterans Affairs as a Service Disabled Veteran Owned Small Business (SDVOSB).

Certified DVBEs must request the DVBE Preference in their solicitation responses and may not request the preference unless the certification process has been completed and certification affirmed.

In no case shall the DVBE Preference Program price or scoring preference be combined with any other county preference program to exceed eight percent (8%) in response to any county solicitation.

Sanctions and financial penalties may apply to a business that knowingly, and with intent to defraud, seeks to obtain or maintain certification as a certified DVBE.

Information about the State's DVBE certification regulations is found in the California Code of Regulations, Title 2, Subchapter 8, Section 1896 et seq., and is also available on the California Department of General Services Office of Disabled Veteran Business Certification and Resources Website at <http://www.pd.dgs.ca.gov/>

Information on the Department of Veteran Affairs SDVOSB certification regulations is found in the Code of Federal Regulations, 38CFR 74 and is also available on the Department of Veterans Affairs Website at: <http://www.vetbiz.gov/>

**REQUEST FOR DVBE PREFERENCE PROGRAM CONSIDERATION FORM****DISABLED VETERAN BUSINESS ENTERPRISE PREFERENCE PROGRAM:**

**INSTRUCTIONS:** All proposers/bidders responding to this solicitation must complete and return this form for proper consideration of the proposal/bid.

In evaluating bids/proposals, the County will give preference to businesses that are certified by the State of California as a Disabled Veteran Business Enterprise (DVBE) or by the Department of Veterans as a Service Disabled Veteran Owned Small Business (SDVOSB) consistent with Chapter 2.211 of the Los Angeles County Code.

Vendor understands that in no instance shall the disabled veteran business enterprise preference program price or scoring preference be combined with any other County preference program to exceed eight percent (8%) in response to any County solicitation.

Information about the State's Disabled Veteran Business Enterprise certification regulations is in the California Code of Regulations, Title 2, Subchapter 8, Section 1896 et seq., and is also available on the California Department of General Services Office of Disabled Veteran Business Certification and Resources Website at <http://www.pd.dgs.ca.gov/>

Information on the Veteran Affairs Disabled Business Enterprise certification regulations made be found in the Code of Federal Regulations, 38CFR 74 and is also available on the Veterans Affairs Website at: <http://www.vetbiz.gov/>

**FIRM NAME:** \_\_\_\_\_

**COUNTY (WEBVEN) VENDOR NUMBER:** \_\_\_\_\_

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☐ I AM NOT a Disabled Veteran Business Enterprise certified by the State of California or a Service Disabled Veteran Owned Small Business with the Department of Veteran Affairs.

☐ I AM certified as a Disabled Veteran Enterprise with the State of California or a Service Disabled Veteran Owned Small Business with the Department of Veteran Affairs as of the date of this proposal/bid submission and I request this proposal be considered for the DVBE Preference.

**DECLARATION: I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE.**

Print Authorized Name	Authorized Signature	Title	Date

**DVBE PROGRAM – DEPARTMENT DATA PROGRAM ACTIVITY WORKSHEET FORMAT**

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The following language shall be included in any contract with a DVBE:

**Disabled Veteran Business Enterprise Preference Program**

This Contract is subject to the provisions of the County's ordinance entitled Disabled Veteran Business Enterprise Preference Program, as codified in Chapter 2.211 of the Los Angeles County Code.

Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Disabled Veteran Business Enterprise.

Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Disabled Veteran Business Enterprise.

If Contractor has obtained certification as a Disabled Veteran Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and ISD of this information prior to responding to a solicitation or accepting a contract award.